

STATE OF MICHIGAN  
COURT OF APPEALS

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*In Re* M A YARIMIAN, Minor.

UNPUBLISHED  
November 25, 2014

No. 320636  
Wayne Circuit Court  
Family Division  
LC No. 10-497019-NA

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Before: O'CONNELL, P.J., and CAVANAGH and FORT HOOD, JJ.

PER CURIAM.

Respondent appeals as of right the trial court order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i) (conditions that led to adjudication continue to exist) and (g) (no reasonable expectation parent can provide proper care or custody). We affirm.

Respondent first argues on appeal that there was not clear and convincing evidence supporting termination of her parental rights. The trial court's findings that a ground for termination has been established and regarding the child's best interest are reviewed under the clearly erroneous standard. MCR 3.977(K); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake was made. To be clearly erroneous, a decision must be more than maybe or probably wrong. Further, regard is to be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it. [*In re Ellis*, 294 Mich App 30, 33; 817 NW2d 111 (2011) (citations omitted).]

A court may terminate a parent's parental rights to a child if one or more of the statutory grounds for termination listed in MCL 712A.19b(3) has been proven by clear and convincing evidence. *In re Olive/Metts Minors*, 297 Mich App 35, 40; 823 NW2d 144 (2012). Only one statutory ground for termination need be established. *Id.* at 41.

In the present case, the trial court did not clearly err in terminating respondent's parental rights under MCL 712A.19b(3)(c)(i) and (g).<sup>1</sup> Those subsections provide:

- (c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:
  - (i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

\* \* \*

- (g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

Clear and convincing evidence supported termination of respondent's parental rights under MCL 712A.19b(3)(c)(i). The determination of what is a reasonable time properly includes both how long it will take for the parent to improve conditions and how long the child can wait for the improvement. *In re Dahms*, 187 Mich App 644, 647-648; 468 NW2d 315 (1991).

The trial court authorized an original petition in October 2010 following the death of the minor child's then-one-year-old brother. The brother had been left unsupervised in a bathtub and drowned. The conditions that led to the adjudication included concerns regarding neglect and failure to care for the minor child, as well as the suitability of respondent's home.

More than three years elapsed from the beginning of this case to the termination of respondent's parental rights. While there was initial delay due to the preparation of the brother's autopsy and respondent suffered some degree of setback because of her husband's death during the pendency of the case, the evidence demonstrated that respondent was provided considerable time to resolve her housing issues and to show that she could properly care for and protect the minor child.

At the termination hearing, respondent acknowledged that the minor child suffered some bruises during an unsupervised visit. Despite the child's contention that respondent's then-boyfriend inflicted the injuries, respondent testified that she did not believe that the boyfriend did so. Child Protective Services investigated and found that the boyfriend inflicted the injuries. Nevertheless, respondent testified that she would still be in a relationship with the boyfriend if he not left her.

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<sup>1</sup> Respondent argues on appeal that the trial erred in ruling that MCL 712A.19b(3)(c)(i), (g), and (j) provided grounds for termination of her parental rights, but it appears the trial court's ruling was only based on subsections (c)(i) and (g).

There was also evidence that respondent failed to obtain suitable housing. Respondent had at least five different residences during the pendency of the case. She lived for a time with the minor child's paternal grandfather, who had a history of child abuse. She also lived in a house that was deemed cluttered and unsafe for the minor child. Respondent resided most recently with her sister, the sister's husband, and five other children. Respondent suggested a living arrangement for the minor child, which included her sharing a bedroom with a cousin she did not know and required the minor child to pass through an adult bedroom to access her bedroom. Respondent had not leased the living space and, therefore, her presence there was subject to the whim of her sister.

The evidence supported a finding that, for over three years, respondent failed to demonstrate that she could provide adequate care for the minor child. Respondent's testimony regarding the circumstances surrounding the minor child's physical injuries and her housing situation raised the same questions about respondent's ability to supervise and protect the child and to provide a safe home that were raised in the original petition. The trial court did not clearly err in finding clear and convincing evidence that respondent would not cure the conditions that led to adjudication within a reasonable time considering the child's age.

The trial court also did not clearly err in finding clear and convincing evidence supporting termination under MCL 712A.19b(3)(g). The same evidence discussed above, which suggested that respondent could not provide proper care or custody for the minor child within a reasonable time, supports such a finding. Respondent had over three years, but failed to demonstrate that she could provide a safe environment in which to care for the child.

Respondent also argues that the trial court committed clear error in finding that termination of her parental rights was in the minor child's best interests. This Court reviews the trial court's best interest findings for clear error. *In re Trejo*, 462 Mich at 356-357.

In the event that a trial court finds one or more grounds for termination under MCL 712A.19b(3), the court shall order termination of a parent's parental rights if such termination is in the child's best interests. MCL 712A.19b(5). Whether termination of parental rights is in the best interests of a child must be proved by a preponderance of the evidence. *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013). In determining whether termination is in the child's best interests, the court may consider the parent's history, psychological evaluation, parenting techniques during parenting time, family bonding, participation in the treatment program, the foster environment and possibility for adoption, and the parent's continued involvement in situations involving domestic violence. *In re Jones*, 286 Mich App 126, 131; 777 NW2d 728 (2009); *In re BZ*, 264 Mich App 286, 301; 690 NW2d 505 (2004); *In re AH*, 245 Mich App 77, 89; 627 NW2d 33 (2001). A court may also consider the child's need for permanency, stability, and finality. *Olive/Metts*, 297 Mich App at 42.

The trial court did not clearly err in finding that termination of respondent's parental rights was in the child's best interests. Respondent failed to protect and care for her two minor children on the evening that her one-year-old son drowned. Despite three years of treatment and planning, respondent demonstrated similarly poor judgment as it related to the minor child's safety. Respondent refused to believe that her boyfriend was involved in the child's physical injuries and testified that she would still be with the boyfriend if he had not left her. Respondent

acknowledged missing several visits and court-ordered therapy sessions. She never secured suitable housing. At the same time, there was evidence that the minor child's aunt provided proper care for the child for three years. While there was witness testimony that respondent and the child were bonded, there was also evidence that the aunt and the child shared a similar bond and that the child preferred to stay with the aunt. The present case was pending for one-half of the minor child's life. She was six at the time of the termination hearing and needed permanency, stability, and finality. The care provider aunt testified to a desire to adopt the child and foster care workers agreed that the aunt provided the child a safe and stable home.

Affirmed.

/s/ Peter D. O'Connell  
/s/ Mark J. Cavanagh  
/s/ Karen M. Fort Hood